

26547. Adulteration and misbranding of jams and jellies; misbranding of marmalade. U. S. v. 21 Cases and 82 Jars of Jam, Jelly, and Marmalade. Default decree of condemnation with provision for delivery of fit portion to a charitable institution. (F. & D. no. 37608. Sample nos. 48875-B to 48879-B, incl., to 48881-B to 48885-B, incl., 48887-B, 48889-B to 48891-B, incl.)

This case involved jellies that were deficient in fruit juice and jams which were deficient in fruit, both products containing more sugar than standard jellies and jams should contain. The products also contained added pectin and in some instances added acid or water or both added acid and added water. Certain of the products, and a lot of marmalade which was also covered by the libel, were short-weight.

On April 24, 1936, the United States attorney for the Western District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 21 cases and 82 jars of jelly, jam, and marmalade at Chester, S. C., alleging that the articles had been shipped in interstate commerce between the dates of February 5, 1935, and November 11, 1935, by Carolina Mushroom Growers, Inc., from Charlotte, N. C., and charging adulteration and misbranding of the jellies and jams and misbranding of marmalade in violation of the Food and Drugs Act as amended. The products were labeled: "Carolina * * * Carolina Mushroom Growers, Inc., Charlotte, N. C.", together with the variety "Pure Red Raspberry Jelly", etc., and the statement of the quantity of the contents.

The jams and jellies were alleged to be adulterated in that sugar, tartaric acid, and pectin in certain lots; sugar, acid, and pectin in certain lots; sugar, acid, pectin, and water in certain lots; and sugar, tartaric acid, pectin, and water in certain lots; had been mixed and packed with the articles so as to reduce or lower their quality; in that mixtures containing said substances and containing less fruit juice or fruit and more sugar than jellies or jams should contain, had been substituted for jellies or jams; and in that the articles had been mixed in a manner whereby inferiority had been concealed.

The jellies and jams were alleged to be misbranded in that the statements on the labels, "Pure Apple Jelly", "Pure Strawberry Jelly", "Jelly Concord Grape", "Jelly Scuppernong Grape Flavor", "Pure Red Raspberry Jelly", "Jelly Apple Flavor", "Pure Quince Jelly", "Pure Crabapple Jelly", "Pure Plum Jelly", or "Pure Seedless Blackberry Jam", were false and misleading and tended to deceive and mislead the purchaser when applied to products resembling jellies and jams but containing less fruit juice or fruit than jellies and jams should contain, and excessive sugar. The jams and jellies were alleged to be misbranded further in that they were imitations of and were offered for sale under the distinctive names of other articles.

The marmalade and portions of the jams and jellies were alleged to be misbranded in that the statements on the labels, "Net Contents 14 Oz. Av." and "Net Contents 1 Pound", were false and misleading and tended to deceive and mislead the purchaser when applied to products that were short in weight; and in that they were food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On July 3, 1936, no claimant having appeared, judgment of condemnation was entered. The products having been found to be fit for human consumption, were ordered delivered to a charitable institution.

M. L. WILSON, *Acting Secretary of Agriculture.*

26548. Adulteration of canned asparagus. U. S. v. 275 Cases of Asparagus. Consent decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. no. 37821. Sample no. 61951-B.)

This case involved canned asparagus that was decomposed in part.

On June 16, 1936, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 275 cases of canned asparagus at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about April 30, 1936, by F. M. Ball & Co. from Oakland, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Premier * * * Fancy Medium Green Asparagus."